



February 14, 2017

**BY ELECTRONIC FILING**

The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: NOTICE OF EX PARTE**  
**WT Docket No. 10-208:** *Universal Service Reform - Mobility Fund*  
**WC Docket No. 10-90:** *Connect America Fund*

Dear Chairman Pai:

As senior executives of our respective companies, we appreciate the Federal Communications Commission’s (“FCC” or “Commission”) focus to extend digital opportunities to all areas of the United States, and agree with Chairman Pai that closing the digital divide should be the new Commission’s highest priority.<sup>1</sup> As competitive wireless carrier companies, we can attest

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<sup>1</sup> See Chairman Ajit Pai, *Closing Digital Divides, Boosting Broadcasting, and Reducing Regulatory Burdens*, Medium Blog, (Feb. 2, 2017), available at <https://medium.com/@AjitPaiFCC/closing-digital-divides-boosting-broadcasting-and-reducing-regulatory-burdens-cf911ee5cf16#.mt53uhby0> (“Chairman Pai’s Blog on Closing Digital Divides”); and Commissioner Michael O’Rielly, *Federal Broadband Infrastructure Spending: Potential Pitfalls*, FCC Blog, (Feb. 1, 2017), available at <https://www.fcc.gov/news-events/blog/2017/02/01/federal-broadband-infrastructure-spending-potential-pitfalls>. See also Remarks

that reasonable, tailored reforms must be enacted to ensure Universal Service Funding (“USF”) helps to both preserve and expand consumer-demanded wireless services in rural America. However, we understand the proposed Mobility Fund II Report and Order may threaten to stymie, rather than promote, digital inclusion in rural and remote areas by creating uncertainty and undermining business efforts. We therefore urge you to consider the economic impact while reforming the Mobility Fund II program and provide certainty to allow us to budget for operations, upgrades, and expansion of the latest mobile technologies over the next several years.

First, cost-benefit analyses drive all of our economic decisions. To do this, we must have accurate facts at our disposal to make a sound business decision. We encourage the FCC to do the same by employing the most accurate measurement analyses to identify gaps in service coverage. While we appreciate the FCC moving forward with USF reform to help expand rural wireless coverage, it is important to highlight deficiencies in the current Form 477 data, upon which the Commission will rely to create its eligible areas list. As Competitive Carriers Association has detailed, the Form 477 data is erratic, at best, and is not a suitable mechanism for determining areas that will be eligible to receive Mobility Fund support.<sup>2</sup> We urge the Commission to further explore and correct these deficiencies so as not to make the same mistake as past administrations.<sup>3</sup> The use of a challenge process that relies upon fundamentally flawed data and in turn places the burden on challengers to disprove coverage claimed by multiple national providers across millions of square miles in a thirty to sixty-day window will fail and leave huge coverage gaps in rural America. Competitive carriers have finite resources and cannot afford to mount widespread challenges in the hopes the Commission will accept some of them. At the very least, the Commission must implement a more robust, thorough challenge process<sup>4</sup> to provide all stakeholders, including

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of Commissioner Ajit Pai, *A Digital Empowerment Agenda*, The Brandery, Cincinnati, Ohio (Sept. 13, 2016) (“Chairman Pai’s Digital Empowerment Agenda”).

<sup>2</sup> See *ex parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, WC Docket No. 10-90 (filed Feb. 9, 2017); *ex parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (filed Nov. 4, 2016); and *ex parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (filed Nov. 3, 2016).

<sup>3</sup> See Tony Romm, *Wired to Fail*, Politico (July 28, 2015), available at [http://www.politico.com/story/2015/07/broadband-coverage-rural-area-fund-mishandled-120601\\_full.html](http://www.politico.com/story/2015/07/broadband-coverage-rural-area-fund-mishandled-120601_full.html) (noting that about half of the 300 projects approved by the Rural Utilities Service, responsible for administering the Broadband Initiatives Program in 2011, were either never started or failed by 2015). See also *Limiteless Mobile’s bankruptcy hits contractors, towercos and suppliers*, Wireless Estimator (Dec. 7, 2016), available at <http://wirelessestimator.com/articles/2016/limitless-mobiles-bankruptcy-hits-contractors-towercos-and-suppliers/> (though Limitless had received a grant from the U.S. Department of Agriculture for a Broadband Infrastructure Recovery Act project, the company ultimately filed for bankruptcy in 2016 as a result of “suffer[ing] from continued, increased costs and delays in [] network buildout, which extended the required runway to profitability that could not be realized absent significant infusions of additional capital”).

<sup>4</sup> See Letter from Sens. Wicker (R-MS), Manchin (D-WV), Baldwin (D-WY), Blunt (R-MO), Burr (R-NC), Capito (R-WV), Daines (R-MT), Ernst (R-IA), Fischer (R-NE), Gardner (R-CO), Heitkamp (D-ND), Johnson (R-WI), King (I-ME), Klobuchar, (D-MN), McCaskill (D-MO), Moran (R-KS), Peters (D-MI), Roberts (R-KS), Rubio (R-FL), Tillis (R-FL), Vitter (R-LA), Warner (D-VA), Wyden (D-OR), Cochran (R-MS), Boozman (R-AR), Kirk (R-IL), U.S. Senate, to The Hon. Tom Wheeler, Chairman, Federal

States/municipalities, wireless providers, and consumers, with an opportunity to correct specific coverage inaccuracies prior to allocating funds. We keenly understand the importance of targeting finite resources, and the Commission should recognize the same.

Additionally, and perhaps most threatening to rural wireless consumers, we understand the Commission intends, using unreliable coverage data, to immediately slash legacy support in many areas that desperately need it. The Commission's plan fails a fundamental test of sound fiscal stewardship by undermining the connectivity gains achieved by existing policy. We encourage the Commission to revise its strategy prior to making these changes, as failure to do so will eliminate competition, strand investment, cut-off rural consumers' connection to critical rural health, public safety, and educational services, such as remote patient monitoring programs and advanced public safety applications,<sup>5</sup> and harm our businesses and the local communities we serve. The Commission's current plan will not only fail to achieve the goal of expanding broadband, it will, in fact, widen the digital divide.

Simply put, a flash-cut of support is fiscally irresponsible considering the amount of money we have invested in networks serving rural consumers. Our telecommunications and tech companies budget three to five years in advance to build facilities, particularly when deploying in remote areas and constructing towers in mountainous and challenging terrain. We need certainty to budget for unique and often extraordinary expenses related to leasehold improvements, including obtaining construction permits, site preparation, extending utility service to remote sites, implementing storm controls, and landscaping.<sup>6</sup> Many of our companies have deployment plans that stretch out to 2021 based on the nature of infrastructure deployment and technology upgrades. And as recently acknowledged, the Commission would be amiss to rescind funds on which providers have already relied to extend their networks for at least the next five years.<sup>7</sup>

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Communications Commission (July 11, 2016), *available at* [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-341429A2.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-341429A2.pdf) (Noting that “[i]mportantly, the FCC must rely on realistic measurements of network experience on the ground to determine areas to support.”). *See also* Letter from Sens. Blunt, Wicker, Moran, Ayotte (R-NH), and Fischer, U.S. Senate, to The Hon. Tom Wheeler, Chairman, Federal Communications Commission (Oct. 24, 2014) (“Ubiquitous, advanced mobile services remain a challenge, and considerable gaps persist in many rural areas.”).

<sup>5</sup> Reductions in support often lead to harmful consequences for consumers, businesses, and public safety interests. As an example, in 2014, MTPCS was forced to withdraw service from Montana, as a result of the FCC's high-cost support phase-down, ultimately leaving some customers in areas of the state without options for service. *See* Reply Comments of Central Louisiana Cellular, LLC, MTPCS, LLC, and Texas 10, LLC, WC Docket No. 10-90, WT Docket No. 10-208 at 1-2 (filed Sept. 8, 2014); *and* Notice of Commission Action, Montana Public Service Commission (Sept. 5, 2014), *available at* [http://psc.mt.gov/Docs/ElectronicDocuments/pdfFiles/D2007-2-18\\_OUT\\_20140905\\_NCA.pdf](http://psc.mt.gov/Docs/ElectronicDocuments/pdfFiles/D2007-2-18_OUT_20140905_NCA.pdf).

<sup>6</sup> *See ex parte* Letter from David LaFuria, Counsel for United States Cellular Corporation, Lukas, Nace, Gutierrez & Sachs, LLP to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (filed May 31, 2016).

<sup>7</sup> *See* Statement of Commissioner Mignon Clyburn, On Reversing Lifeline Broadband Provider Designations (Feb. 3, 2017), *available at* <https://www.fcc.gov/document/statement-commissioner-clyburn-reversing-lifeline-designations>.

Instead, it is imperative that Mobility Fund II target geographic areas without LTE, while providing sufficient transitional certainty in legacy high-cost areas for *at least* three years. While USF has helped our companies construct towers and maintain service in high-cost areas, USF support alone is not enough. We have invested millions of our own private capital to extend coverage in rural and remote parts of the United States. Without this private investment, rural America would remain unserved or, at best, underserved.

Finally, Congress similarly understands the significance of avoiding digital chasms throughout the United States. Most recently, a bipartisan group of 30 Senators noted that “wireless carriers need long-term certainty of ongoing support to invest, deploy, maintain, and update their networks that provide vital mobile broadband services in rural areas. As the best example, certainty should come in the form of sufficient and predictable USF support in both the implementation of MFII and the transition away from legacy support mechanisms over the next several years.”<sup>8</sup> Policymakers across all parties agree that the FCC cannot and should not abruptly eliminate the support that rural carriers need to maintain the current service and to complete their network upgrades, as planned. Deployment of mobile broadband, and the service itself, is a significant economic driver, and that is even more pronounced in rural America. We should not miss this opportunity to enable economic growth, create jobs, and spur innovation in the areas that need it most. We urge the Commission to follow Congress’s directive<sup>9</sup> and revise its Mobility Fund II plan to ensure sufficient, predictable support for both deployment of new networks and those supported by legacy high-cost funds.

We look forward to continued work with the Commission to ensure universal availability and maintenance of modern wireless networks capable of providing advanced mobile broadband service to all Americans. Please do not hesitate to contact us or our trade association representatives at Competitive Carriers Association should you have any questions.<sup>10</sup>

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<sup>8</sup> See Letter from Sens. Roger Wicker (R-Miss.), Joe Manchin (D-W.Va.), Tammy Baldwin (D-Wis.), Michael F. Bennet (D-Colo.), Roy Blunt (R-Mo.), Richard Burr (R-N.C.), Maria Cantwell (D-Wash.), Shelley Moore Capito (R-W.Va.), Bob Casey (D-Pa.), Thad Cochran (R-Miss.), Catherine Cortez Masto (D-Nev.), Dick Durbin (D-Ill.), Joni Ernst (R-Iowa), Deb Fischer (R-Neb.), Al Franken (D-Minn.), Cory Gardner (R-Colo.), Heidi Heitkamp (D-N.D.), Dean Heller (R-Nev.), John Hoeven (R-N.D.), Ron Johnson (R-Wis.), Angus King (I-Maine), Amy Klobuchar (D-Minn.), Jeff Merkley (D-Ore.), Jerry Moran (R-Kan.), Gary Peters (D-Mich.), Pat Roberts (R-Kan.), Thom Tillis (R-N.C.), Elizabeth Warren (D-Mass.), Ron Wyden (D-Ore.), and Todd Young (R-Ind.), U.S. Senate, to The Hon. Ajit Pai, Chairman, Federal Communications Commission (Feb. 2, 2017).

<sup>9</sup> See *id.*

<sup>10</sup> This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206 of the Commission’s Rules.

Respectfully submitted,

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